

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA**

In this action Plaintiff Gregory L. Rhoades contends that Defendant Atkison violated his First Amendment rights and the Due Process Clause when he destroyed Plaintiff's Religious Property. Trial in this action is set for September 15, 2009.

On September 8, 2009, the court signed a writ of habeas corpus ad testificandum for Plaintiff's presence at trial. On September 8, 2009, the writ was served on the litigation coordinator at Calipatria State Prison. The court faxed copies of the writ to the litigation coordinator, the out-to-court desk at Calipatria State Prison, and CDCR Transportation. On September 9, 2009, the litigation coordinator at Calipatria State Prison contacted the court and informed the court CDCR would be unable to bring Plaintiff to this court on September 15, 2009.

The court finds that it is necessary to conduct a hearing on this issue and a new trial date.

Accordingly, the court ORDERS that:

1. A telephonic hearing is set for September 11, 2009 at 1:00 p.m.; and
 2. Counsel for Defendant is directed to arrange for telephone contact with Plaintiff, all initiate the call to (559) 499-5669.

IT IS SO ORDERED.

Dated: September 9, 2009

/s/ Anthony W. Ishii